

Appl. No. 09/665,034
Amdt. Dated 08/05/2004
Reply to Office action of April 6, 2004

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed April 6, 2004. In the Office Action, (i) claims 13, 16, 39, 50, and 53 were rejected under 35 U.S.C. § 102, and (ii) claims 14-15, 17-20, 40-44, 51-52, and 54-55 were rejected under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claim Objections

Claim 18 was objected to based on a language formality. The language formality has been corrected, and thus, Applicants respectfully request withdrawal of the outstanding objection to claim 18.

Rejections Under 35 U.S.C. § 102

Claims 13, 16, 39, 50, and 53 were rejected under 35 U.S.C. §102(b) as being anticipated by Bernhardt (USP 5,218,515). While Applicants respectfully traverse the rejection, further discussions concerning the grounds for traverse are not necessary because claims 15, 40 and 52 have been placed into independent form and include limitation of base claims 13, 39 and 50, respectively. Claims 13, 39 and 50 have been cancelled without prejudice and claims 16 and 53 now depend on claims 15 and 52, respectively.

Withdrawal of the outstanding §102(b) rejection is respectfully requested.

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Rejection Under 35 U.S.C. §103

Claims 15, 40, and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bernhardt (USP 5,218,515) in view of Japp (USP 6,073,344). Also, claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over Bernhardt in view of Sato (USP 5,858,816), Whitehead (USP 4,682,270) and Japp. Herein, claims 15, 20, 40 and 52 have been placed into independent form by including limitations of independent base claims 13, 13, 39 and 50, respectively. Support for these limitations can be found, among other places, on page 9, lines 3-16 of the subject application.

As stated in the previously Office Action, Applicants respectfully submit that Japp is not a prior art reference. More specifically, this subject application claims the benefit of and is a continuation of Application No. 09/153,630, filed September 15, 1998, now issued as U.S. Patent No. 6,153,829. Japp was filed on January 28, 1999, after the filing date of September 15, 1998 of the parent application 09/153,630.

According to 35 U.S.C. § 120, "[a]n application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application." See 35 U.S.C. §120.

This continuation application, when filed, was amended to contain a specific reference to claim the benefit of the earlier filed application. The cross reference to the related application has been updated herein to include the issued patent number of the parent patent application. Accordingly, this continuation application is entitled to the filing date of September 15, 1998 for Application No. 09/153,630 and predates the filing date of Japp. Thus, Japp is not a prior art reference to this continuation application.

For this reason, Applicants respectfully request the withdrawal of the 35 U.S.C. §103(a) rejections for claims 15, 20, 40 and 52 as well as any claims dependent thereon.

In addition, claims 14, 18, 42, 51, and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bernhardt in view of Sato. Moreover, claims 17, 19, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bernhardt, Sato and Whitehead, and claims 41 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bernhardt in view of Whitehead. These rejections are no longer applicable based on their dependency on new independent claims 15, 20, 40 and 52.

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Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Susan McFarlane
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